

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

McKENNA DUFFY, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

YARDI SYSTEMS, INC., BRIDGE
PROPERTY MANAGEMENT, L.C.,
CALIBRATE PROPERTY MANAGEMENT
LLC, CLEAR PROPERTY MANAGEMENT,
LLC, DALTON MANAGEMENT, INC., HNN
ASSOCIATES, LLC, LEFEVER MATTSON,
MANCO ABBOTT, INC., MORGUARD
CORPORATION, SUMMIT MANAGEMENT
SERVICES, INC., CREEKWOOD PROPERTY
CORPORATION, and LEGACY PARTNERS,
INC.

Defendants.

Case No. 2:23-cv-01391-RSL

**STIPULATED MOTION RE: MOTION
TO DISMISS BRIEFING
SCHEDULE/PROCEDURE AND
RULE 26 DEADLINES**

Pursuant to Local Civil Rules 7(d)(1) and 10(g), Plaintiff McKenna Duffy and Defendants Yardi Systems, Inc. (“Yardi”), Bridge Property Management, L.C. (“Bridge”), Dalton Management, Inc. (“Dalton”), LeFever Mattson (“LeFever”), Legacy Partners, Inc. (“Legacy”), HNN Associates, LLC (“HNN”), Manco Abbott, Inc. (“Manco”), and Summit Management Services, Inc. (“Summit”) (collectively, “Stipulating Defendants”¹), by and through their respective counsel, hereby stipulate as follows:

1. WHEREAS, Plaintiff filed the Class Action Complaint (the “Complaint”) against all Defendants in the above captioned action on September 8, 2023;

2. WHEREAS, Plaintiff voluntarily dismissed their claims, without prejudice, against non-Stipulating Defendants Jones Lang LaSalle Incorporated and Pillar Properties LLC² on September 25, 2023 (ECF Nos. 36-37);

3. WHEREAS, the Complaint asserts two claims under Section 1 of the Sherman Act based on the alleged use of Yardi’s software for the multifamily rental market;

4. WHEREAS, on October 3, 2023, the parties filed a Stipulated Motion for Extension of Time to Respond to the Complaint requesting that Defendants’ deadline to answer, move to dismiss, or otherwise respond to the Complaint be continued to November 17, 2023 (ECF No. 43);

5. WHEREAS, the Stipulated Motion for Extension of Time to Respond to the Complaint contemplated that the parties would propose a joint briefing procedure and schedule for the Court to consider, which the parties anticipated would provide for the filing of one

¹ Defendant Creekwood Property Corporation (“Creekwood”) is in the process of engaging local counsel. Creekwood’s attorneys have agreed to abide by this stipulation and expect to make an appearance as soon as local counsel is engaged.

² Plaintiff has since moved to substitute Defendant Pillar Properties, LLC, for R.D. Merrill Real Estate Holdings, LLC (ECF No. 75).

oversized joint motion to dismiss addressing issues and arguments common to all Defendants and undersized motions to dismiss for each Defendant that wishes to make arguments unique to them, (*id.* ¶ 11);

6. WHEREAS, on October 4, 2023, the Court adopted the Stipulated Motion for Extension of Time to Respond to the Complaint, continued Defendants' deadline to respond to the Complaint to November 17, 2023, and ordered the parties to submit a proposed briefing procedure and schedule by October 18, 2023;

7. WHEREAS, the parties have since conferred telephonically and by electronic mail, and have agreed that party and judicial efficiency would be best served by adopting the briefing schedule and procedure stipulated to below;

8. WHEREAS, the parties do not intend to alter any applicable page limits for any Federal Rule of Civil Procedure ("Rule") 12 motions that Defendants may choose to bring except for those motions (if any) brought pursuant to Rule 12(b)(6);

9. WHEREAS, on October 6, 2023, the Court set the following dates for initial disclosure and submission of the Joint Status Report and Discovery Plan:

- Deadline for FRCP 26(f) Conference: October 20, 2023
- Initial Disclosures Pursuant to FRCP 26(a)(1): October 27, 2023
- Combined Joint Status Report and Discovery Plan
as required by FRCP 26(f): November 3, 2023

(ECF No. 59 at 1);

10. WHEREAS, the Court ordered the parties to meet and confer before contacting the Court to request an extension of the above Rule 26 deadlines; and

11. WHEREAS, the parties have met and conferred telephonically and by electronic mail regarding the above Rule 26 deadlines and, subject to the Court's approval, have agreed to

continue those deadlines for one week, as stipulated to below;

THEREFORE, Plaintiff and Stipulating Defendants STIPULATE AND AGREE that:

Rule 26 Deadlines

The Rule 26 deadlines set by the Court in its order of October 6, 2023 (ECF No. 59 at 1) are continued as follows:

- Deadline for FRCP 26(f) Conference: October 27, 2023
- Initial Disclosures Pursuant to FRCP 26(a)(1): November 3, 2023
- Combined Joint Status Report and Discovery Plan
as required by FRCP 26(f): November 10, 2023

Briefing Schedule for Rule 12 Motion(s)

The following briefing schedule will apply to all Rule 12 motion(s) Defendants may choose to bring:

- Deadline to File Motion(s) to Dismiss: November 17, 2023
- Deadline to File Opposition(s): January 26, 2024
- Deadline to File Reply/Replies: February 16, 2024

Briefing Procedure for Rule 12 Motion(s)

The following procedure will govern the parties' motion to dismiss briefing:

- Joint Rule 12(b)(6) Motion: Defendants may file one omnibus 40-page motion to dismiss pursuant to Rule 12(b)(6) on behalf of any Defendant that wishes to join in that motion. Plaintiff's opposition to the joint motion to dismiss is limited to 40 pages. Defendants may file a joint 20-page reply.
- Individual Rule 12(b)(6) Motions: In addition to joining in the joint motion to dismiss, each Defendant may also file an individual Rule 12(b)(6) motion, not to exceed 10 pages. Plaintiff may oppose any such individual motion(s) in

opposition(s) not to exceed 10 pages. For convenience, Plaintiff may file a single opposition collectively addressing all individual 12(b)(6) motions in one filing as opposed to filing an opposition to each Defendant's individual Rule 12(b)(6) motion (if any). In that case, Plaintiff's opposition is limited to the sum of the number of pages Plaintiff would have had to respond if Plaintiff had opposed each motion individually (e.g., if three Defendants submit individual 12(b)(6) motions, Plaintiff may file either three individual oppositions of 10 pages or less or one opposition of 30 pages or less.) Defendants may each have five pages to reply to Plaintiff's opposition(s).

- All Other Rule 12 Motions: All other Rule 12 motions that Defendants may choose to bring will be subject to the applicable page limits provided for by the Civil Local Rules and Federal Rules of Civil Procedure.

STIPULATED to this 18th day of October, 2023.

IT IS SO ORDERED this 19th day of October, 2023.



The Honorable Robert S. Lasnik

Presented by:

**HAGENS BERMAN SOBOL
SHAPIRO LLP**

By: /s/ Steve W. Berman

Steve W. Berman (WSBA No. 12536)

Theodore J Wojcik (WSBA No. 55553)

Stephanie A Verdoia (WSBA No. 58636)

Xiaoyi Fan (WSBA No. 56703)

1301 Second Avenue
Suite 2000, Seattle, WA 98101
Telephone: 206-623-7292
steve@hbsslaw.com
tedw@hbsslaw.com
stephaniev@hbsslaw.com
kellyf@hbsslaw.com

Rio S Pierce (*admitted pro hac vice*)
715 Hearst Ave Ste 202
Berkeley, CA 94710
Telephone: 510-725-3000
riop@hbsslaw.com

Attorneys for Plaintiff, MCKENNA DUFFY

**MATTHEW CARVALHO, ATTORNEY
AT LAW, PLLC**

By: /s/ Matthew Carvalho
Matthew Carvalho (WSBA #31201)
720 Seneca Street
Seattle, WA 98101
Telephone: (206) 799-6888
Email: matt@mattcarvalholaw.com

DEBEVOISE & PLIMPTON LLP

Maura K. Monaghan (*admitted pro hac vice*)
Michael Schaper (*admitted pro hac vice*)
Kristin D. Kiehn (*admitted pro hac vice*)
66 Hudson Boulevard
New York, NY 10001
Telephone: (212) 909-6000
Email: mkmonaghan@debevoise.com
Email: mschaper@debevoise.com
Email: kdkiehn@debevoise.com

Abraham Tabaie (*admitted pro hac vice*)
650 California Street
San Francisco, CA 94108
Telephone: (415) 738-5700
Email: atabaie@debevoise.com

*Attorneys for Defendant, YARDI SYSTEMS,
INC.*

CABLE HUSTON LLP

By: /s/ Brian S. Epley
Jon W. Monso (WSBA No. 43912)
Brian S. Epley (WSBA No. 48412)
1455 SW Broadway, Suite 1500
Portland, OR 97201-3412
Telephone: (503) 224-3092
Email: jmonson@cablehuston.com
Email: bepley@cablehuston.com

*Attorneys for Defendant, DALTON
MANAGEMENT, INC.*

SHOOK, HARDY & BACON L.L.P.

By: /s/ Steven Rich
Steven Rich (WSBA No. 48444)
701 Fifth Avenue, Suite 6800
Seattle, Washington 98104
Telephone: (206) 344.7600
Email: srich@shb.com

Ryan Sandrock (*admitted pro hac vice*)
555 Mission Street Suite 2300
San Francisco, California 94105
Telephone: (415) 544.1900
Email: rsandrock@shb.com

*Attorneys for Defendant, LEFEVER
MATTSON*

CORR DOWNS PLLC

By: /s/ Jacob M. Downs
 Jacob M. Downs (WSBA # 37982)
 100 W. Harrison St., Suite N440
 Seattle, WA 98119
 Direct: (206) 962-5041
 Cell: (206) 683-6266
 Email: jdowns@corrdowns.com

ROETZEL & ANDRESS

Stephen W. Funk (*admitted pro hac vice*)
 222 South Main Street, Suite 400
 Akron, OH 44308
 Telephone: 330.849.6602
 Cell: 330.819.5387
 Email: sfunk@ralaw.com

*Attorneys for Defendant, SUMMIT
 MANAGEMENT SERVICES, INC.*

HOLLAND & KNIGHT LLP

By: /s/ Kristin Asai
 Kristin Asai (WSBA No. #49511)
 601 SW Second Avenue, Suite 1800
 Portland, OR 97204
 Telephone: (503) 243.2300
 Email: kristin.asai@hklaw.com

Kenneth Racowski (*pro hac vice
 forthcoming*)
 1650 Market Street, Suite 3300,
 Philadelphia, PA 19103
 Telephone: (215) 252.9580
 Email: Keneth.Racowski@hklaw.com

*Attorneys for Defendant, LEGACY
 PARTNERS, INC.*

NORTON ROSE FULBRIGHT US LLP

Michael Swartzendruber
 2200 Ross Avenue, Suite 3600
 Dallas, Texas 75201
 Telephone: 214-855-8067
 michael.swartzendruber@nortonrosefulbrig
 ht.com

Eliot Turner
 1301 McKinney, Suite 5100
 Houston, TX 77010
 Telephone: 713-651-5113
 eliot.turner@nortonrosefulbright.com

*Attorneys for Defendant, CREEKWOOD
 PROPERTY CORPORATION*

PERKINS COIE LLP

By: /s/ David A. Perez
 David A. Perez, WSBA No. 43959
 DPerez@perkinscoie.com
 Elvira Castillo, WSBA No. 43893
 ECastillo@perkinscoie.com
 Tiffany Lee, WSBA No. 51979
 TiffanyLee@perkinscoie.com
 Marten King, WSBA No. 57106
 MKing@perkinscoie.com
 1201 Third Avenue, Suite 4900
 Seattle, WA 98101-3099
 Telephone: 206.359.6767

Adrianna Simonelli, WSBA No. 58472
 ASimonelli@perkinscoie.com
 1120 NW Couch Street, Tenth Floor
 Portland, Oregon 97209-4128
 Telephone: 503.727.2000
 Facsimile: 503.727.2222

*Attorneys for Defendant, HNN ASSOCIATES,
 LLC*

STOKES LAWRENCE, P.S.

By: /s/ Mathew Harrington
 Mathew Harrington
 Mathew.Harrington@stokeslaw.com
 Valerie Walker
 Valerie.Walker@stokeslaw.com
 1420 Fifth Avenue, Suite 3000
 Seattle, WA 98101-2393
 Telephone: (206) 626-6000

SPENCER FANE LLP

Jessica Nelson (*admitted pro hac vice*)
 Donald Heeman (*admitted pro hac vice*)
 100 South Fifth Street, Suite 2500
 Minneapolis, MN 55402
 Telephone : 612-268-7006
 jnelson@spencerfane.com
 dheeman@spencerfane.com

Attorneys for Defendant, MANCO ABBOTT, INC.

VAN KAMPEN & CROWE PLLC

By: /s/ Al Van Kampen
 Al Van Kampen (WSBA No. 13670)
 avankampen@vkclaw.com
 P.O. BOX 33632
 Seattle, WA 98133
 Telephone: (206) 441-1121

VINSON & ELKINS LLP

By: /s/ Michael W. Scarborough
 Michael W. Scarborough (*admitted pro hac vice*)
 Dylan I. Ballard (*admitted pro hac vice*)
 M. Kevin Costello (*admitted pro hac vice*)
 Madison Lo (*admitted pro hac vice*)
 555 Mission Street, Suite 2000
 San Francisco, CA 94105
 Telephone: (415) 979-6900
 Email: mscarborough@velaw.com
 Email: dballard@velaw.com
 Email: kcostello@velaw.com
 Email: mlo@velaw.com

Stephen Medlock (*admitted pro hac vice*)
 Molly McDonald (*admitted pro hac vice*)
 2200 Pennsylvania Avenue NW
 Suite 500 West
 Washington, DC 20037
 Telephone: (202) 639-6500
 Email: smedlock@velaw.com
 Email: mmcdonald@velaw.com

Mackenzie Newman (*admitted pro hac vice*)
 1114 Avenue of the Americas
 32nd Floor
 New York, NY 10036
 Telephone: (212) 237-0000
 Email: mnewman@velaw.com

*Attorneys for Defendant, BRIDGE
 PROPERTY MANAGEMENT, L.C.*